

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
Subregion 36**

THE GUARD PUBLISHING COMPANY  
d/b/a THE REGISTER GUARD

Respondent

CASES

36-CA-8743-1  
36-CA-8849-1  
36-CA-8789-1  
36-CA-8842-1

and

EUGENE NEWSPAPER GUILD,  
LOCAL 37194, TNG-CWA, AFL-CIO

**THE CHARGING PARTY'S CROSS-EXCEPTIONS TO DECISION OF  
ADMINISTRATIVE LAW JUDGE**

COMES NOW THE CHARGING PARTY, The Eugene Newspaper Guild, Local 37194, TNG-CWA, AFL-CIO, pursuant to Section 102.46(e) of the Rules and Regulations of the National Labor Relations Board, and files the following Cross-exceptions to the February 21, 2002 Decision of Administrative Law Judge John J. McCarrick. The Charging Party excepts:

1. To the Judge's failure to find that the Respondent's e-mail system was a "work area" under Republic Aviation Corp., 324 U.S. 793 (1945) and its progeny, as such failure to find and conclude is contrary to evidence in the Record as a whole and contrary to law. Tr. 74-75; Tr. 167, L.25-169, L.7. Tr. 171, L.13-22; Tr. 216; 272-273; 291-294; 318, L.21-25; Tr. 315, L.1-10; Tr. 323; Tr. 361, L.21- 362, L.3. <sup>1</sup>

2. To the Judge's failure to find that Company employees regularly used e-mail in their

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<sup>1</sup>Reference to the Record will be made as follows: Reference to the Transcript will be designated as "Tr."; references to Exhibits will be designated as "Ex."; references to the Administrative Law Judge's decision will be designated as "D.". References to specific lines will be designated as "L."

work, as such failure to find and conclude is contrary to evidence in the Record. Tr. 74-75; Tr. 167, L.25-169, L.7. Tr. 171, L.13-22; Tr. 216; 272-273; 291-294; 318, L.21-25; Tr. 315, L.1-10; Tr. 323; Tr. 361, L.21- 362, L.3.

3. To the Judge's finding that the Respondent's Communications Systems Policy is not a facially overbroad no-solicitation rule, D.7, L.5-32, as such finding is contrary to evidence in the Record as a whole and contrary to law. Tr. 74-75; Tr. 167, L.25-169, L.7. Tr. 171, L.13-22; Tr. 216; 272-273; 291-294; 318, L.21-25; Tr. 315, L.1-10; Tr. 323; Tr. 361, L.21- 362, L.3.

4. To the Judge's finding that the Board has found no violation in non-discriminatory limits on the use of e-mail, as such finding is contrary to law. D.7, L.19-20.

5. To the Judge's failure to find and conclude that employee use of e-mail, a form of solicitation protected under Section 7 and analogous to oral speech, may not be totally banned without justification, as such finding is contrary to law.

6. To the Judge's failure to find that the Company's Counterproposal 26 would require the Union to unlawfully waive Section 7 protected solicitation rights of its members, as such failure to find and conclude is contrary to law. D.10.

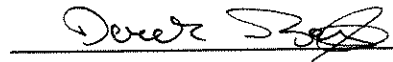
7. To the Judge's failure to find that management employee Dave Baker sent an e-mail to bargaining unit members on the Company e-mail system regarding an upcoming Union rally, as such failure to find and conclude is contrary to evidence in the Record. Tr. 325-329 (Testimony of Baker).

8. To the Judge's failure to find that Suzi Prozanski's May 4 e-mail was sent in response to Dave Baker's e-mail on an upcoming Union rally, as such failure to find and conclude is contrary to evidence in the Record. Tr. 81-83 (Testimony of Prozanski).

9. To the Judge's failure to find that Suzi Prozanski sent her May 4 e-mail on non-work time, as such failure to find and conclude is contrary to un rebutted evidence in the Transcript. Tr.84 (Testimony of Prozanski).

10. To the Judge's failure to find that employees at the Register-Guard self-regulated their breaks, as such failure to find and conclude is contrary to un rebutted evidence in the Record. Tr. 114, L. 17-20; Tr. 383, L. 12-25.

Respectfully submitted,



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